




EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

TO: Thomas Howard
Executive Director
State Water Resources Control Board

FROM: 
Shahla Dargahi Farahnak
Assistant Deputy Director
Division of Water Quality

DATE: OCT 24 2011

SUBJECT: SUBMISSION OF UNDERGROUND STORAGE TANK REGULATIONS TO THE
OFFICE OF ADMINISTRATIVE LAW

Attached for your signature is the regulatory package that is being provided to the Office of Administrative Law. I would appreciate your signature on the attached Memo to Secretary Rodriguez and the Standard Form 400. I respectfully request that this regulatory package then be transmitted to the California Environmental Protection Agency on or before October 26, 2011.

The proposed regulation provides an option to compliance with existing independent testing and approval requirements so that Underground Storage Tank (UST) owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality.

Attachments (6)

cc: Ms. Laura S. Fisher, Chief
UST Leak Prevention Technical Unit
Division of Water Quality


Ms. Julie Osborn
Staff Counsel
Office of Chief Counsel

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

State Water Resources Control Board

TO: Matthew Rodriguez
Secretary For Environmental Protection
California Environmental Protection Agency

FROM: 
Thomas Howard
Executive Director
Executive Office

DATE: OCT 24 2011

SUBJECT: REQUEST FOR APPROVAL OF PROPOSED UNDERGROUND STORAGE
TANK REGULATION

Attached please find the Office of Administrative Law's (OAL) Economic and Fiscal Impact Statement (Standard Form 399) for your signature. The State Water Resources Control Board (State Water Board) must submit Standard Form 399 to OAL as part of its underground storage tank (UST) regulation package.

In addition to the Standard Form 399 a copy of the proposed regulations, Initial Statement of Reasons, and Notice of Public Regulatory Action are attached for your information. Only Standard Form 399 requires your signature, and certifies there are no economic or fiscal impacts.

I would appreciate your execution of this form by November 3, 2011, so that we can promptly assemble and submit the emergency regulations package to OAL. If you have any questions regarding these regulations please contact Shahla Farahnak at (916) 341-5737 (sfarahnak@waterboards.ca.gov). You may also contact Laura Fisher at (916) 341-5870 (lfisher@waterboards.ca.gov).

Attachments (5)

cc: See next page.

OCT 24 2011

cc: Ms. Shahla D. Farahnak
Assistant Deputy Director
Division of Water Quality

Ms. Laura S. Fisher, Chief
UST Leak Prevention Technical Unit
Division of Water Quality

Ms. Julie Osborn
Staff Counsel
Office of Chief Counsel

Mr. Don Johnson
Assistant Secretary
California Environmental Protection Agency

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-201-1105-01	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

<p>RECEIVED FOR FILING PUBLICATION DATE</p> <p>NOV 03 '11 NOV 18 '11</p> <p>Office of Administrative Law NOTICE</p>	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Underground Tank Regulations		TITLE(S) 23	FIRST SECTION AFFECTED 2631	2. REQUESTED PUBLICATION DATE 11-18-11
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Laura Fisher	TELEPHONE NUMBER (916) 341-5870	FAX NUMBER (Optional) (916) 341-5808
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)			
TITLE(S)		ADOPT	
		AMEND	
		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Thomas Howard</i>	DATE 10/24/2011
TYPED NAME AND TITLE OF SIGNATORY Thomas Howard, Executive Director	

For use by Office of Administrative Law (OAL) only

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE
ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)

FD-399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME State Water Resources Control Board	CONTACT PERSON Laura Fisher	TELEPHONE NUMBER 9163415870
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Underground Tank Regulations		NOTICE FILE NUMBER Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|---|--|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.) |

h. (cont.) Provide option for compliance with existing independent testing and approval requirements for USTs.

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: _____ Describe the types of businesses (include nonprofits.): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

For the number of businesses that will be created: _____ eliminated: _____

Explain: _____

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (List areas.): _____

5. Enter the number of jobs created: _____ or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes ☐ No If yes, explain briefly: _____

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ N/A

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

2. If multiple industries are impacted, enter the share of total costs for each industry: _____
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ _____
4. Will this regulation directly impact housing costs? ☐ Yes ☒ No If yes, enter the annual dollar cost per housing unit: _____ and the number of units: _____
5. Are there comparable Federal regulations? ☐ Yes ☒ No Explain the need for State regulation given the existence or absence of Federal regulations: _____
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____
2. Are the benefits the result of : ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority? Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:
- | | | |
|----------------|-------------------|----------------|
| Regulation: | Benefit: \$ _____ | Cost: \$ _____ |
| Alternative 1: | Benefit: \$ _____ | Cost: \$ _____ |
| Alternative 2: | Benefit: \$ _____ | Cost: \$ _____ |

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____
4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No Explain: _____

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

4. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ Yes ☐ No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	\$ _____	Cost-effectiveness ratio: \$ _____
Alternative 1:	\$ _____	Cost-effectiveness ratio: \$ _____
Alternative 2:	\$ _____	Cost-effectiveness ratio: \$ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

☐ b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCAL YEAR)

☐ 2. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in _____

☐ b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)

☐ d. is issued only in response to a specific request from the _____
_____, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the _____ authorized by Section _____
(FEES, REVENUE, ETC.)
_____ of the _____ Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ Savings of approximately \$ _____ annually.

☒ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☒ a. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ b. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately \$ _____ in the current State Fiscal Year.

☒ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year.

☐ 2. Savings of approximately \$ _____ in the current State Fiscal Year.

☒ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

FIS. _____ OFFICER SIGNATURE

DATE

AGENCY SECRETARY ¹
APPROVAL/CONCURRENCE

Tom Howard
[Signature]

DATE

11/2/11

DEPARTMENT OF FINANCE ²
APPROVAL/CONCURRENCE

PROGRAM BUDGET MANAGER

[Signature]

DATE

1. The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

2. Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.

Health and Safety Code
Chapter 6.7 Underground Storage of Hazardous Substances

25281. Definitions

For purposes of this chapter, the following definitions apply:

- (a) "Automatic line leak detector" means any method of leak detection, as determined in regulations adopted by the board that alerts the owner or operator of an underground storage tank to the presence of a leak. "Automatic line leak detector" includes, but is not limited to, any device or mechanism that alerts the owner or operator of an underground storage tank to the presence of a leak by restricting or shutting off the flow of a hazardous substance through piping, or by triggering an audible or visual alarm, and that detects leaks of three gallons or more per hour at 10 pounds per square inch line pressure within one hour.
- (b) "Board" means the State Water Resources Control Board. "Regional board" means a California regional water quality control board.
- (c) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the tank system.
- (d) (1) "Certified Unified Program Agency" or "CUPA" means the agency certified by the Secretary for Environmental Protection to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.
- (2) "Participating Agency" or "PA" means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary to implement or enforce the unified program element specified in paragraph (3) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.
- (3) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce the unified program element specified in paragraph (3) of subdivision (c) of Section 25404. For purposes of this chapter, a UPA has the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce only those requirements of this chapter listed in paragraph (3) of subdivision (c) of Section 25404 and the regulations adopted to implement those requirements. Except as provided in Section 25296.09, after a CUPA has been certified by the secretary, the UPA shall be the only local agency authorized to enforce the requirements of this chapter listed in paragraph (3) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA. This paragraph shall not be construed to limit the authority or responsibility granted to the board and the regional boards by this chapter to implement and enforce this chapter and the regulations adopted pursuant to this chapter.
- (e) "Department" means the Department of Toxic Substances Control.
- (f) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.
- (g) "Federal act" means Subchapter IX (commencing with Section 6991) of Chapter 82 of Title 42 of the United States Code, as added by the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616), or as it may subsequently be amended or supplemented.
- (h) "Hazardous substance" means either of the following:
 - (1) All of the following liquid and solid substances, unless the department, in consultation with the board, determines that the substance could not adversely affect the quality of the waters of the state:

- (A) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code.
- (B) Hazardous substances, as defined in Section 25316.
- (C) Any substance or material that is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.
- (2) Any regulated substance, as defined in subsection (2) of Section 6991 of Title 42 of the United States Code, as that section reads on January 1, 1989, or as it may subsequently be amended or supplemented.
- (i) "Local agency" means the local agency authorized, pursuant to Section 25283, to implement this chapter.
- (j) "Operator" means any person in control of, or having daily responsibility for, the daily operation of an underground storage tank system.
- (k) "Owner" means the owner of an underground storage tank.
- (l) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the state, another state of the United States, any department or agency of this state or another state, or the United States to the extent authorized by federal law.
- (m) "Pipe" means any pipeline or system of pipelines that is used in connection with the storage of hazardous substances and that is not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.
- (n) "Primary containment" means the first level of containment, such as the portion of a tank that comes into immediate contact on its inner surface with the hazardous substance being contained.
- (o) "Product tight" means impervious to the substance that is contained, or is to be contained, so as to prevent the seepage of the substance from the containment.
- (p) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into or on the waters of the state, the land, or the subsurface soils.
- (q) "Secondary containment" means the level of containment external to, and separate from, the primary containment.
- (r) "Single walled" means construction with walls made of only one thickness of material. For the purposes of this chapter, laminated, coated, or clad materials are considered single walled.
- (s) "Special inspector" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements of underground storage tanks.
- (t) "Storage" or "store" means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years. "Storage" or "store" does not include the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.
- (u) "Tank" means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthen materials, including, but not limited to, wood, concrete, steel, or plastic that provides structural support.
- (v) "Tank integrity test" means a test method capable of detecting an unauthorized release from an underground storage tank consistent with the minimum standards adopted by the board.

- (w) "Tank tester" means an individual who performs tank integrity tests on underground storage tanks.
- (x) "Unauthorized release" means any release of any hazardous substance that does not conform to this chapter, including an unauthorized release specified in Section 25295.5.
- (y) (1) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and that is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:
 - (A) A tank with a capacity of 1,100 gallons or less that is located on a farm and that stores motor vehicle fuel used primarily for agricultural purposes and not for resale.
 - (B) A tank that is located on a farm or at the residence of a person, that has a capacity of 1,100 gallons or less, and that stores home heating oil for consumptive use on the premises where stored.
 - (C) Structures, such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. A sump that is a part of a monitoring system required under Section 25290.1, 25290.2, 25291, or 25292 and sumps or other structures defined as underground storage tanks under the federal act are not exempted by this subparagraph.
 - (D) A tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.
- (2) Structures identified in subparagraphs (C) and (D) of paragraph (1) may be regulated by the board and any regional board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.
- (z) "Underground tank system" or "tank system" means an underground storage tank, connected piping, ancillary equipment, and containment system, if any.
- (aa) (1) "Unified program facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements of paragraph (3) of subdivision (c) of Section 25404.
- (2) "Unified program facility permit" means a permit issued pursuant to Chapter 6.11 (commencing with Section 25404), and that encompasses the permitting requirements of Section 25284.
- (3) "Permit" means a permit issued pursuant to Section 25284 or a unified program facility permit as defined in paragraph (2).

25284.1. Board Action for Prevention of Unauthorized Releases; Field—Based Research Program; Review of Requirements for Petroleum Underground Storage Tank System Installation and Removal Contractors

- (a) The board shall take all of the following actions with regard to the prevention of unauthorized releases from petroleum underground storage tanks:
 - (1) On or before June 1, 2000, initiate a field-based research program to quantify the probability and environmental significance of releases from underground storage tank systems meeting the 1998 upgrade requirements specified in Section 25284, as that section read on January 1, 2002. The research program shall do all of the following:
 - (A) Seek to identify the source and causes of releases and any deficiencies in leak detection systems.
 - (B) Include single-walled, double-walled, and hybrid tank systems, and avoid bias towards known leaking underground storage tank systems by including a statistically valid sample of all operating underground storage tank systems.

- (C) Include peer review.
- (2) Complete the research program on or before June 1, 2002.
- (3) Use the results of the research program to develop appropriate changes in design, construction, monitoring, operation, and maintenance requirements for tank systems.
- (4) On or before January 1, 2001, adopt regulations to do all of the following:
 - (A) (i) Require underground storage tank owners, operators, service technicians, installers, and inspectors to meet minimum industry-established training standards and require tank facilities to be operated in a manner consistent with industry-established best management practices.
 - (ii) The board shall implement an outreach effort to educate small business owners or operators on the importance of the regulations adopted pursuant to this subparagraph.
 - (B) (i) Except as provided in clauses (ii) and (iii), require testing of the secondary containment components, including under-dispenser and pump turbine containment components, upon initial installation of a secondary containment component and periodically thereafter, to ensure that the system is capable of containing releases from the primary containment until a release is detected and cleaned up. The board shall consult with the petroleum industry and local government to assess the appropriate test or tests that would comply with this subparagraph.
 - (ii) Secondary containment components that are part of an emergency generator tank system may be tested using enhanced leak detection, if the test is performed at the frequency specified by the board for testing of secondary containment pursuant to Section 2644.1 of Title 23 of the California Code of Regulations. If the results of the enhanced leak detection test indicate that any component of the emergency generator tank system is leaking liquid or vapor, the owner or operator shall take appropriate actions to correct the leakage, and the owner or operator shall retest the system using enhanced leak detection until the system is no longer leaking liquid or vapor.
 - (iii) Any tank or piping that is part of an emergency generator tank system and located within a structure as described in paragraph (2) of subdivision (a) of Section 25283.5 is exempt from the secondary containment testing required by clause (i) of subparagraph (B) of paragraph (4), if the owner or operator conducts visual inspections of tank or piping each time the tank system is operated, but no less than monthly, and maintains a log of inspection results for review by the local agency. The provisions of this clause are not applicable if the board adopts regulations pursuant to Section 25299.3 that address the design, construction, upgrade, and monitoring of unburied tanks that are part of an emergency generator tank system.
- (C) Require annual testing of release detection sensors and alarms, including under-dispenser and pump turbine containment sensors and alarms. The board shall consult with the petroleum industry and local government to assess the appropriate test or tests that would comply with this subparagraph.
- (5) (A) Require an owner or operator of an underground storage tank installed after July 1, 1987, if a tank is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping database, to have the underground storage tank system fitted, on or before July 1, 2001, with under-dispenser containment or a spill containment or control system that is approved by the board as capable of containing any accidental release.
- (B) Require all underground storage tanks installed after January 1, 2000, to have the tank system fitted with under-dispenser containment or a spill containment or control system to meet the requirements of subparagraph (A).
- (C) Require an owner or operator of an underground storage tank that is not otherwise subject to subparagraph (A), and not subject to subparagraph (B), to have the underground storage

tank system fitted to meet the requirements of subparagraph (A), on or before December 31, 2003.

- (D) On and after January 1, 2002, no person shall install, repair, maintain, or calibrate monitoring equipment for an underground storage tank unless that person satisfies both of the following requirements:
 - (i) The person has fulfilled training standards identified by the board in regulations adopted pursuant to this section.
 - (ii) The person possesses a tank testing license issued by the board pursuant to Section 25284.4, or a Class "A" General Engineering Contractor License, C-10 Electrical Contractor License, C-34 Pipeline Contractor License, C-36 Plumbing Contractor License, or C-61 (D40) Limited Specialty Service Station Equipment and Maintenance Contractor License issued by the Contractors' State License Board.
- (E) Loans and grants for the installation of under-dispenser containment or a spill containment or control system shall be made available pursuant to Chapter 8.5 (commencing with Section 15399.10) of Part 6.7 of Division 3 of Title 2 of the Government Code.
- (6) Convene a panel of local agency and regional board representatives to review existing enforcement authority and procedures and to advise the board of any changes that are needed to enable local agencies to take adequate enforcement action against owners and operators of noncompliant underground storage tank facilities. The panel shall make its recommendations to the board on or before September 30, 2001. Based on the recommendations of the panel, the board shall also establish effective enforcement procedures in cases involving fraud.
- (b) On or before July 1, 2001, the Contractors' State License Board, in consultation with the board, the petroleum industry, air pollution control districts, air quality management districts, and local government, shall review its requirements for petroleum underground storage tank system installation and removal contractors and make changes, where appropriate, to ensure these contractors are qualified.

25291. Underground Storage Tanks Installed After January 1, 1984; Requirements

Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

- (a) The underground storage tank shall be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:
 - (1) Primary containment shall be product-tight and compatible with the substance stored.
 - (2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.
 - (3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.
 - (4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.
 - (5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the maximum volume of a 24-hour rainfall as determined by a 25-year storm history.
 - (6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage

tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary containment set forth in this section if all of the following criteria are met:

- (A) The outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells.
- (B) The system is capable of detecting the entry of hazardous substances from the inner container into the space.
- (C) The system is capable of detecting water intrusion into the space from the outer shell.
- (7) Underground storage tanks for motor vehicle fuels installed before January 1, 1997, may be designed and constructed in accordance with this paragraph in lieu of the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:
 - (A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.
 - (B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the underground storage tank to a monitoring well to detect any release of motor vehicle fuels.
 - (C) The system is designed to provide early leak detection and response, and to protect the groundwater from releases.
 - (D) The monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25292. This subparagraph does not apply to tanks designed, constructed, and monitored in accordance with paragraph (6).
 - (E) Pressurized piping systems connected to tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25292 also meet the conditions of this subdivision if the tank meets the conditions of subparagraphs (A) to (D), inclusive. However, any pipe connected to an underground storage tank installed after July 1, 1987, shall be equipped with secondary containment that complies with paragraphs (1) to (6), inclusive.
- (b) The underground tank system shall be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment.
- (c) The underground storage tank shall be provided with equipment to prevent spills and overflows from the primary tank.
- (d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, those substances shall be separated in both the primary and secondary containment to avoid potential intermixing.
- (e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of monitoring for water intrusion and for removing the water by the owner or operator. This removal system shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.
- (f) Underground pressurized piping that conveys a hazardous substance shall be equipped with an automatic line leak detector and shall be tightness tested annually.
- (g) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

- (h) Before the underground storage tank is placed in service, the underground tank system shall be tested in operating condition using a tank integrity test.
- (i) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permit holder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

25299.3. Regulations

- (a) The board shall adopt regulations implementing this chapter.
- (b) Every city and county shall undertake its regulatory responsibilities under this chapter. Except as provided in Section 25299.1, every city and county shall implement this chapter not later than July 1, 1985.
- (c) Any regulation adopted by the board pursuant to this section shall assure consistency with the requirements for state programs implementing the federal act, and shall include any more stringent requirements necessary to implement this chapter.

25299.7. Board as Lead Agency for Purposes of Federal Act; Procedures and Implementation Plans; Regulations

- (a) The board is designated as the lead agency in the state for all purposes stated in the federal act and may exercise any powers which a state may exercise pursuant to the federal act.
- (b) The board may prepare, as part of any program application submitted to the Environmental Protection Agency for state program approval pursuant to Section 6991c of Title 42 of the United States Code, any procedures and implementation plans necessary to assure compliance with the requirements for a state program implementing the federal act. These procedures and implementation plans may include, but are not limited to, procedures or implementation plans with respect to investigation, compliance monitoring, enforcement, public participation, and sharing of information among local agencies, the board, and the Environmental Protection Agency. If the Environmental Protection Agency approves of the state program, the board, the regional boards, and each local agency shall administer this chapter in accordance with these procedures and implementation plans where required by the memorandum of agreement executed by the board and the Environmental Protection Agency. These procedures and implementation plans shall also apply to any public agency or official who brings a civil enforcement action pursuant to this chapter and to any city or county specified in Section 25299.1, to the extent required by the memorandum of agreement. The board's approval of the program application and memorandum of agreement is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (c) The board shall adopt, pursuant to Section 25299.3, any regulations necessary to obtain state program approval pursuant to Section 6991c of Title 42 of the United States Code. The board shall adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the board in furtherance of this section shall be filed with, but may not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the board.

Title 40: Protection of Environment
Part 280 – Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST)
Subpart B – UST systems: Design, Construction, Installation and Notification

§ 280.20 Performance standards for new UST systems.

In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements.

(a) *Tanks.* Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The tank is constructed of fiberglass-reinforced plastic; or

Note: The following industry codes may be used to comply with paragraph (a)(1) of this section: Underwriters Laboratories Standard 1316, "Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products"; Underwriter's Laboratories of Canada CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products"; or American Society of Testing and Materials Standard D4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks."

(2) The tank is constructed of steel and cathodically protected in the following manner:

(i) The tank is coated with a suitable dielectric material;

(ii) Field-installed cathodic protection systems are designed by a corrosion expert;

(iii) Impressed current systems are designed to allow determination of current operating status as required in §280.31(c); and

(iv) Cathodic protection systems are operated and maintained in accordance with §280.31 or according to guidelines established by the implementing agency; or

Note: The following codes and standards may be used to comply with paragraph (a)(2) of this section:

(A) Steel Tank Institute "Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks";

(B) Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks";

(C) Underwriters Laboratories of Canada CAN4-S603-M85, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and CAN4-G03.1-M85, "Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids," and CAN4-S631-M84, "Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems"; or

(D) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."

(3) The tank is constructed of a steel-fiberglass-reinforced-plastic composite; or

Note: The following industry codes may be used to comply with paragraph (a)(3) of this section: Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks," or the Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks."

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

- (i) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and
- (ii) Owners and operators maintain records that demonstrate compliance with the requirements of paragraphs (a)(4)(i) for the remaining life of the tank; or
- (5) The tank construction and corrosion protection are determined by the implementing agency to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than paragraphs (a) (1) through (4) of this section.
- (b) *Piping*. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The piping is constructed of fiberglass-reinforced plastic; or
Note: The following codes and standards may be used to comply with paragraph (b)(1) of this section:

- (A) Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";
- (B) Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas";
- (C) Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and
- (D) Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible Underground Hose Connectors."

(2) The piping is constructed of steel and cathodically protected in the following manner:

- (i) The piping is coated with a suitable dielectric material;
- (ii) Field-installed cathodic protection systems are designed by a corrosion expert;
- (iii) Impressed current systems are designed to allow determination of current operating status as required in §280.31(c); and
- (iv) Cathodic protection systems are operated and maintained in accordance with §280.31 or guidelines established by the implementing agency; or

Note: The following codes and standards may be used to comply with paragraph (b)(2) of this section:

- (A) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";
- (B) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";
- (C) American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; and
- (D) National Association of Corrosion Engineers Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems."

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

- (i) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and
- (ii) Owners and operators maintain records that demonstrate compliance with the requirements of paragraph (b)(3)(i) of this section for the remaining life of the piping; or

Note: National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; and National Association of Corrosion Engineers Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems," may be used to comply with paragraph (b)(3) of this section.

(4) The piping construction and corrosion protection are determined by the implementing agency to be designed to prevent the release or threatened release of any stored regulated

substance in a manner that is no less protective of human health and the environment than the requirements in paragraphs (b) (1) through (3) of this section.

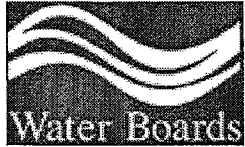
- (c) *Spill and overfill prevention equipment.* (1) Except as provided in paragraph (c)(2) of this section, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:
- (i) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and
 - (ii) Overfill prevention equipment that will:
 - (A) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or
 - (B) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or
 - (C) Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.
- (2) Owners and operators are not required to use the spill and overfill prevention equipment specified in paragraph (c)(1) of this section if:
- (i) Alternative equipment is used that is determined by the implementing agency to be no less protective of human health and the environment than the equipment specified in paragraph (c)(1) (i) or (ii) of this section; or
 - (ii) The UST system is filled by transfers of no more than 25 gallons at one time.
- (d) *Installation.* All tanks and piping must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

Note: Tank and piping system installation practices and procedures described in the following codes may be used to comply with the requirements of paragraph (d) of this section:

- (i) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System"; or
 - (ii) Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or
 - (iii) American National Standards Institute Standard B31.3, "Petroleum Refinery Piping," and American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System."
- (e) *Certification of installation.* All owners and operators must ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with paragraph (d) of this section by providing a certification of compliance on the UST notification form in accordance with §280.22.
- (1) The installer has been certified by the tank and piping manufacturers; or
 - (2) The installer has been certified or licensed by the implementing agency; or
 - (3) The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation; or
 - (4) The installation has been inspected and approved by the implementing agency; or
 - (5) All work listed in the manufacturer's installation checklists has been completed; or
 - (6) The owner and operator have complied with another method for ensuring compliance with paragraph (d) of this section that is determined by the implementing agency to be no less protective of human health and the environment.

Laura Fisher - NOTICE OF PROPOSED REGULATORY ACTION - UST REGS

From: <lyris@swrcb18.waterboards.ca.gov>
To: Laura Fisher <lfisher@waterboards.ca.gov>
Date: 11/18/2011 5:17 PM
Subject: NOTICE OF PROPOSED REGULATORY ACTION - UST REGS
Attachments: notice_ust rulmaking.pdf; isor_ust rulemaking 2631.pdf; proposed regulation _ust.pdf



This is a message from the State Water Resources Control Board.

Attached is a Notice of Proposed Regulatory Action, Initial Statement of Reasons and the Proposed Text Regulations on the Underground Storage Tank Regulations.

Comment Deadline is January 2, 2012 by 5:00 p.m.

Thank you,
Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1015 Street, 24th Floor
Sacramento, CA 95814
Phone: (916) 341-5600
Fax: (916) 341-5620
E-mail: jtownsend@waterboards.ca.gov

You are currently subscribed to regs_general as: lfisher@waterboards.ca.gov.

To unsubscribe click here: http://swrcb18.waterboards.ca.gov/u?id=270479.0ce61e53778e8e414db7baf58a25aa3&n=T&l=regs_general&o=262552

(It may be necessary to cut and paste the above URL if the line is broken)

or send a blank email to leave-262552-270479.0ce61e53778e8e414db7baf58a25aa3@swrcb18.waterboards.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

TITLE 23. WATERS DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS CHAPTER 16. UNDERGROUND STORAGE TANK REGULATIONS

Notice of Proposed Regulatory Action

ARTICLE 3. NEW UNDERGROUND STORAGE TANK DESIGN, CONSTRUCTION, AND MONITORING REQUIREMENTS

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) proposes to amend, adopt, or repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Water Board proposes to amend California Code of Regulations, title 23, division 3, chapter 16, article 3, section 2631 relating to design and construction requirements for new underground storage tanks (USTs). The proposed regulation provides an option for compliance with existing independent testing and approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality.

PUBLIC HEARING

A public hearing has not been scheduled for this proposed action. However, as provided in Government Code section 11346.8, any interested person, or his or her duly authorized representative, may request a public hearing if the request is submitted in writing in the manner described below to the State Water Board no later than 15 days prior to the close of the written comment period. If a request for a public hearing is made, the State Water Board shall, to the extent practicable, provide notice of the time, date, and place of the hearing in accordance with Government Code section 11346.4 by mailing the notice to every person who has filed a request for notice with the State Water Board. In addition, as prescribed by Government Code section 11340.85, notice may be provided by means of electronic communication to those persons who have expressly indicated a willingness to receive notice by this means.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Water Board. The written comment period closes on January 2, 2012 at 5:00 p.m.. The State Water Board will only consider comments received by that time.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Please send comment letters to Jeanine Townsend, Clerk to the Board, by email at (commentletters@waterboards.ca.gov) (if less than 15 megabytes in size or less), (916) 341-5620 (fax), or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000 (by mail)
1001 I Street, 24th Floor, Sacramento, CA 95814 (by hand delivery)

Please also indicate in the subject line, **"Comment Letter – Proposed UST Regulations."**

Hand and special deliveries should also be addressed to Ms. Townsend at the address above. Couriers delivering comments must check in with lobby security and have them contact Ms. Townsend at (916) 341-5600.

To be added to the mailing list for this rulemaking and to receive notification of updates of this rulemaking, you may subscribe to the listserve for **"Program Requirements and Guidance"** by going to: http://www.waterboards.ca.gov/resources/email_subscriptions/ust_subscribe.shtml. You may also call Ms. Laura Fisher at (916) 341-5870 or email her at lfisher@waterboards.ca.gov. **Persons who receive this notice by mail or electronic mail are already on the mailing list.**

AUTHORITY AND REFERENCE

Health and Safety Code section 25299.3 authorizes the State Water Board to adopt regulations to implement chapter 6.7 of the Health and Safety Code. Reference sections are Health and Safety Code sections 25281, 25286, 25290.1, 25290.2, 25291, and 25404.1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Chapter 6.7 of the Health and Safety Code requires that the primary containment of a UST be compatible with the stored substance, and that the secondary containment be constructed to prevent structural weakening as a result of contact with any released substance. Federal regulations also require UST owners and operators to use USTs that are made of or lined with materials that are compatible with the substance stored. Existing State Water Board regulations require that a UST be approved by an independent testing organization and that an owner or operator of a UST use system components made of, or lined with, materials that are compatible with the hazardous substances stored in the UST.

The State of California and the United States Environmental Protection Agency (U.S. EPA) have found that greenhouse gas (GHG) emissions pose a threat to human health and welfare. Using alternative fuels, including biodiesel blends, is imperative to reduce GHG emissions. Testing and approval of USTs has not kept up with the introduction of and desire to use alternative fuels in California. In 2009, the State Water Board promulgated a temporary regulatory variance of up to 36 months from certain regulatory provisions to allow UST owners to store biodiesel blends up to 20 percent biodiesel (B20) by volume in USTs before testing by an independent testing agency has been completed. This variance will sunset on June 1, 2012.

Various equipment and methods of leak detection equipment have been tested and have been approved for use with various blends of biodiesel. The mechanisms are now in place for release detection equipment manufacturers and fuel suppliers to test and obtain approval for release detection equipment for other alternative fuels in a timely manner. However, testing by an independent testing agency of biodiesel blends greater than 5 percent biodiesel (B5) by volume in USTs will likely not be completed for several years and testing has not yet begun on various other alternative fuels.

The proposed regulation provides an option for UST owners and operators with USTs that meet construction requirements contained in Health and Safety Code section 25291, subdivision (a), paragraphs (1) – (6) and subdivisions (b) – (i), inclusive, section 25290.1 or section 25290.2 to comply with existing independent testing and approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality. The proposed regulation is consistent with the U.S. EPA's guidance on meeting the federal UST compatibility requirements. Similar to the temporary variance, the proposed regulation limits the option to double walled USTs.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 4.

COST OR SAVINGS TO STATE AGENCIES

The State Water Board has determined that there is no cost or savings to state agencies as a result of the proposed regulations.

COST OR SAVINGS IMPOSED ON LOCAL AGENCIES

The State Water Board has determined that there is no cost or savings imposed on local agencies as a result of the proposed regulations, or other nondiscretionary costs or savings imposed on local agencies.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

The State Water Board has determined that there is no cost or savings in federal funding to the state as a result of the proposed regulations.

BUSINESS IMPACT/SMALL BUSINESS

Because the proposed regulation provides an option for compliance with existing independent testing and approval requirements it will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Nor will the proposed regulatory action adversely affect small businesses in California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The State Water Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The State Water Board has determined that the proposed regulatory action will have no effect on the creation or elimination of jobs within California. Nor will the proposed regulatory action have any effect on the creation of new businesses, the elimination of existing businesses, or the expansion of existing businesses doing business within California.

EFFECT ON HOUSING COSTS

The State Water Board has determined that the proposed regulatory action will have no effect on housing costs.

ALTERNATIVES

The State Water Board has determined that no reasonable alternative would be more or equally effective in carrying out the purpose for which the proposed regulation is intended or less burdensome to affected private persons than the proposed action.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulation during the written comment period or at any hearing on this matter.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND THE RULEMAKING FILE

The State Water Board has prepared an Initial Statement of Reasons for the proposed action. The statement includes the specific purpose for the regulation proposed for adoption and the rationale for the State Water Board's determination that adoption is reasonably necessary to carry out the purpose for which the regulation is proposed. All the information upon which the proposed regulation is based is contained in the rulemaking file. The Initial Statement of Reasons, the express term of the proposed regulation, and the rulemaking file are available from the contact person listed below or at the website listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any hearing that is requested and considering all timely and relevant comments received, the State Water Board may adopt the proposed regulation substantially as described in this notice. If the State Water Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) days before the State Water Board adopts the regulation as modified. A copy of any modified regulation may be obtained by contacting Ms. Laura Fisher, the primary contact person identified below. The State Water Board will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting either of the persons listed below. A copy may also be accessed on the State Water Board website previously identified.

CONTACT PERSONS

Requests of copies of the text of the proposed regulation, the Statement of Reasons, or other information upon which the rulemaking is based, or other inquiries should be addressed to the following:

Name: Laura Fisher
Address: State Water Resources Control Board
Division of Water Quality
1001 "I" Street
Sacramento, CA 95814
Telephone No.: (916) 341-5870
E-mail address: lfisher@waterboards.ca.gov

The backup contact person is:

Name: Cory Hootman
Address: State Water Resources Control Board
Division of Water Quality
1001 "I" Street
Sacramento, CA 95814
Telephone No.: (916) 341-5668
E-mail address: chootman@waterboards.ca.gov

The documents relating to this proposed action may also be found on the State Water Board's website at the following address: http://www.waterboards.ca.gov/water_issues/programs/ust/.

**Proposed Amendments
to the
California Code of Regulations
Title 23. Waters
Division 3. State Water Resources Control Board
and Regional Water Quality Control Boards
Chapter 16. Underground Tank Regulations**

**INITIAL
STATEMENT OF REASONS**

Article 3. New Underground Storage Tank, Design, Construction, and Monitoring Requirements

SECTION 2631. DESIGN AND CONSTRUCTION REQUIREMENTS FOR NEW UNDERGROUND STORAGE TANKS.

The State Water Resources Control Board (State Water Board) proposes to amend California Code of Regulations, title 23, division 3, chapter 16, article 3, section 2631 relating to design and construction requirements for new underground storage tanks (USTs). The proposed regulation provides an option for compliance with existing independent testing and approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality. Because the proposed regulation provides an option for compliance with existing independent testing and approval requirements it will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Nor will the proposed regulatory action adversely affect small businesses in California.

The State Water Board relied upon the United States Environmental Protection Agency's (U.S. EPA) guidance, "Compatibility of Underground Storage Tank Systems with Biofuel Blends," dated July 5, 2011, to amend the regulation.¹ The proposed amendment does not mandate the use of specific technologies or equipment, nor does it unnecessarily duplicate or conflict with federal law. The State Water Board does not propose to adopt any regulation inconsistent with those contained in the Code of Federal Regulations.

The State Water Board has determined that no reasonable alternative would be more or equally effective in carrying out the purpose for which the proposed regulation is intended or less burdensome to affected private persons than the proposed action.

Public Problem, Administrative Requirement, or Other Condition or Circumstance that the Proposed Regulations are Intended to Address

Chapter 6.7 of the Health and Safety Code requires that the primary containment of a UST be compatible with the hazardous substance stored (such as a fuel and/or fuel additive), and that the secondary containment is constructed to prevent structural weakening because of contact with any released substance. (See Health & Saf. Code, §§ 25290.1, subd. (c)(1), 25290.2, subd. (c)(1), & 25291, subd. (a)(1).) Federal regulations also require UST owners and operators to use USTs that are made of or lined with materials that are compatible with the substance stored. (40 CFR 280.32.)

To implement these requirements, existing section 2631 provides that the design and construction of a UST and UST components must be approved by an independent testing laboratory (e.g., Underwriter's Laboratory (UL)). Existing section 2631.1 further provides that a UST owner or operator must use a UST system made of, or lined with, materials that are compatible with the hazardous substances stored in the tank. Existing section 2634 requires that the release detection method for the UST system be tested by an independent testing

¹ Guidelines for Compatibility of Underground Storage Tank Systems with Biofuel Blends (76 Fed Reg. 39095 et seq. (July 5, 2011), as revised 76 FR 46798 (dated August 3, 2011)), at <http://www.epa.gov/oust/altfuels/biofuelsguidance.htm> [as of Oct. 17, 2011].

laboratory and be approved to function with the hazardous substance stored. UL is the independent testing organization that has issued approvals for USTs that are used in California.

In 2007, Governor Schwarzenegger signed Executive Order S-01-07. This executive order finds that greenhouse gas (GHG) emissions pose a serious threat to the health of California's citizens and the quality of the environment, that California's transportation sector is the leading source of CHG emissions, and that alternative fuels can reduce CHG emissions. The executive order directed, in addition to other things, that a statewide goal be established to reduce the carbon intensity of transportation fuels by at least 10 percent by 2020 and that a Low Carbon Fuel Standard for transportation fuels be established.

One way to reduce GHG emissions is to displace the use of traditional vehicle fuels and increase the use of alternative fuels, such as biodiesel. The most appropriate mechanism for storing many alternative fuels is USTs. On January 7, 2009, UL determined that biodiesel blends up to 5 percent biodiesel (B5) by volume fall within the certification for petroleum diesel. Resolving UST storage issues will result in the increase use of alternative fuels.

Effective June 1, 2009, section 2631.2 provides for a temporary variance of up to 36 months from certain provisions of sections 2631, 2631.1, and 2643, which allows UST owners to store biodiesel blends up to 20 percent biodiesel (B20) by volume in USTs before testing by an independent testing organization has been completed. The section 2631.2 variance will sunset on June 1, 2012.

Various equipment and methods of leak detection equipment have been tested and have been approved for use with various blends of biodiesel. The mechanisms are now in place for release detection equipment manufacturers and fuel suppliers to test and obtain approval for release detection equipment for other alternative fuels in a timely manner. Therefore, UST owners and operators can meet the requirements in section 2643.

At the time that it adopted section 2631.2, information available indicated that 36 months was a reasonable time period to complete required UST testing and obtain necessary approvals so that UST owners and operators could meet the requirements in sections 2631 and 2631.1. UL's material compatibility testing and approval for biodiesel blends greater than B5 have not been completed and will likely not be completed for several years. To the State Water Board's knowledge UL has not begun to actively address other alternative fuels in their standards development process, and therefore a testing completion date for compatibility of alternate fuels is unknown. Therefore, UST owners and operators will be unable to meet the requirements in section 2361 after the variance expires.

Specific Purpose and Necessity of the Proposed Action

The most appropriate mechanism for storing many alternative fuels is USTs. UL material compatibility testing and approval is a lengthy process. The delay in waiting for UL material compatibility testing and approval is reducing the use of alternative fuels. The State Water Board wishes to provide an alternative to UL's material compatibility testing and approval to facilitate the use of alternative fuels in California and reduce GHG emissions, while also minimizing the risk of UST failures and, therefore, harm to water quality.

The State Water Board is proposing to amend section 2631(b) and adopting subsections (j) and (k) of section 2631 to allow UST owners and operators with USTs that meet construction requirements contained in Health and Safety Code section 25291, subdivision (a), paragraphs

(1) – (6) and subdivisions (b) – (i), inclusive, section 25290.1 or section 25290.2 to demonstrate compliance with the statutory performance standards by submitting to the local agency a written, affirmative statement of compatibility for the specific hazardous substance from the manufacturer(s) of the containment or components when the independent testing organization approval for containment or UST components does not include the compatibility of the hazardous substance stored or to be stored.

The proposed regulation only allows the submittal of a written, affirmative statement of compatibility from the manufacturer when the independent testing organization approval does not include the specific hazardous substance stored or to be stored, therefore if at any time an independent testing organization determines whether the containment or UST components are compatible with the specific hazardous substance then the manufacturer's affirmative statement of compatibility can no longer be used to demonstrate compatibility. Using the option of a written, affirmative statement from the manufacturer(s) of the containment or components to demonstrate UST compatibility will remove the delay caused by the lengthy UL material compatibility testing and approval process and allow for the lawful storage of alternative fuels.

The proposed regulation for compatibility is consistent with the U.S. EPA's guidance, "Compatibility of Underground Storage Tank Systems with Biofuel Blends," dated July 5, 2011, cited above, finding that a written, affirmative statement of compatibility for the specific hazardous substance from the manufacturer(s) of the containment or component is an acceptable method of complying with federal requirements to demonstrate UST system compatibility with the hazardous substance stored or to be stored. Because the UL's material compatibility testing and approval process can take several years and UL does not retroactively apply compatibility approvals to previously manufactured products, the proposed regulation is necessary to allow UST owners and operators to store various fuels in UST systems that are determined to be compatible.

In order to reduce the risk of any impact to ground water quality from a direct release from a single walled UST, only double walled USTs are eligible for the existing temporary variance. Releases from single walled UST releases enter the environment; releases from double walled UST, on the other hand, are contained and detected before they enter the environment. The proposed regulation is consistent with the variance in that it limits the option to double walled USTs.

The State Water Board has determined that the proposed regulation supports and facilitates the use of various alternative fuels and also minimizes the risk of UST failures and, therefore, harm to water quality.

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER
QUALITY CONTROL BOARDS
CHAPTER 16. UNDERGROUND TANK REGULATIONS

Article 3. New Underground Storage Tank Design, Construction, and Monitoring Requirements

§ 2631. Design and Construction Requirements for New Underground Storage Tanks.

- (a) All new underground storage tanks including associated piping used for the storage of hazardous substances shall have primary and secondary containment. Primary containment shall be product-tight. Secondary containment may be manufactured as an integral part of the primary containment or it may be constructed as a separate containment system. Secondary containment systems shall be designed and constructed such that the secondary containment system can be periodically tested in accordance with section 2637(a).
- (b) Except as provided in subsection (j), the ~~The~~ design and construction of all primary containment including any integral secondary containment system shall be approved by an independent testing organization in accordance with industry codes, voluntary consensus standards, or engineering standards. Except as provided in subsection (j), all ~~All~~ other components used to construct the primary containment system, such as special accessories, fittings, coatings or linings, monitoring systems and level controls shall also be approved by an independent testing organization. This requirement became effective on July 1, 1991 for underground storage tanks; January 1, 1992 for piping; and shall be effective on January 1, 1995 for all other components. The exterior surface of underground storage tanks shall bear a marking, code stamp, or label showing the following minimum information:
- (1) Engineering standard used;
 - (2) Nominal diameter in feet;
 - (3) Nominal capacity in gallons;
 - (4) Degree of secondary containment;
 - (5) Useable capacity in gallons;
 - (6) Design pressure in psig;
 - (7) Maximum operating temperature in degrees Fahrenheit;
 - (8) Construction materials;
 - (9) Year manufactured; and
 - (10) Identity of manufacturer.

- (c) A primary containment system with or without an integral secondary containment system shall have wear plates (striker plates) installed, center to center, below all accessible openings. The plates shall be made of steel or other appropriate material if steel is not compatible with the hazardous substance stored. The width of the plate shall be at least eight inches on each side, or shall be equal to the area of the accessible opening or guide tube, whichever is larger. The thickness of the steel plate shall be at least 1/8 inch and those made of other materials shall be of sufficient thickness to provide equivalent protection. The plate, if under 1/4 inch thick, shall be rolled to the contours of the underground storage tank and all plates shall be bonded or tack welded in place. A drop tube-mounted bottom protector may fulfill this requirement.
- (d) A secondary containment system which is not an integral part of primary containment shall be designed and constructed according to an engineering specification approved by a state registered professional engineer or according to a nationally recognized industry code or engineering standard. The engineering specification shall include the construction procedures. Materials used to construct the secondary containment system shall have sufficient thickness, density, and corrosion resistance to prevent structural weakening or damage to the secondary containment system as a result of contact with any released hazardous substance. The following requirements apply to these secondary containment systems:
- (1) The secondary containment system shall be constructed to contain at least the following volumes:
 - (A) One hundred percent of the usable capacity of the primary containment system where only one primary container is within the secondary containment system.
 - (B) In the case of multiple primary containers within a single secondary containment system, the secondary containment system shall be large enough to contain 150 percent of the volume of the largest primary container within it, or 10 percent of the aggregate internal volume of all primary containers within the secondary containment system, whichever is greater. When all primary containers are completely enclosed within the secondary containment system, the restrictions of this subsection do not apply.
 - (2) If the secondary containment system is open to rainfall, it shall be constructed to accommodate the volume of precipitation which could enter the secondary containment system during a 24- hour, 25-year storm in addition to the volume specified in subsection (d)(1).
 - (3) If backfill material is placed in the secondary containment system, the volumetric requirements for the pore space shall be equal to the requirement in subsection (d)(1). The available pore space in the secondary containment system backfill shall be determined using standard engineering methods and safety factors. The specific retention and specific yield of the backfill material, the location of any primary container within the secondary containment, and the proposed method of operation for the secondary containment system shall be considered in determining the available pore space.
 - (4) The secondary containment system shall be equipped with a collection system to accumulate, temporarily store, and permit removal of any liquid within the system.

- (5) The floor of the secondary containment system shall be constructed on a firm base and, if necessary for monitoring, shall be sloped to a collection sump. One or more access casings shall be installed in the sump and sized to allow removal of collected liquid. The access casing shall extend to the ground surface, be perforated in the region of the sump, and be covered with a locked waterproof cap or enclosed in a surface security structure that will protect the access casing(s) from entry of surface water, accidental damage, unauthorized access, and vandalism. A facility with locked gates will satisfy the requirements for protection against unauthorized access and vandalism. The casing shall have sufficient thickness to withstand all anticipated stresses with appropriate engineering safety factors and constructed of materials that will not be structurally weakened by the stored hazardous substance and will not donate, capture, or mask constituents for which analyses will be made.
- (6) Secondary containment systems using membrane liners shall be approved by an independent testing organization in accordance with industry codes, voluntary consensus standards, or engineering standards. A membrane liner shall contain no primary nutrients or food-like substances attractive to rodents and shall meet the requirements in Table 3.1 after a 30-day immersion in the stored hazardous substance.

Table 3.1 Standards for Membrane Liners

Some Acceptable Test Methods (See Appendix I, Table A)

Property	Unsupported Liners	Supported Liners	Requirement
(A) Tensile strength Tensile strength at yield Tensile strength at break	ASTM D638	ASTM D751 Procedure B (Cut Strip Method)	>300 lbs./in. of width >200lbs./in. of width
(B) Permeability	ASTM E96	ASTM E96	<0.65 gram/meter-hr
(C) Seam Strength	ASTM D413	ASTM D751	=Parent material
(D) Solubility	ASTM D471	ASTM D471	<0.10% by weight
(E) Puncture	FTMS 101C Method 2065	FTMS 101C Method 2065	350 lbs. 80 lbs.
(F) Tear	ASTM D1004 DIEC	ASTM D721	152 lbs. 50 lbs.

- (7) A membrane liner, if used, shall be installed under the direct supervision of a representative of the membrane liner fabricator or a contractor certified by the fabricator.

- (8) The excavation base and walls for a membrane liner shall be prepared to the membrane liner fabricator's specifications and shall be firm, smooth, and free of any sharp objects or protrusions.
- (9) The site shall be assessed to ensure that the secondary containment is always above the ground water and not in a 25-year flood plain, unless the containment and monitoring designs are for use under such conditions.
- (e) Laminated, coated, or clad materials shall be considered a single wall and do not fulfill the requirements of both primary and secondary containment.
- (f) Underground storage tanks with integral secondary containment systems, which satisfy the construction requirements of subsection (b), fulfill the volumetric requirements for secondary containment specified in subsection (d)(1).
- (g) Underground storage tanks with secondary containment systems shall be so designed and installed so that any loss of a hazardous substance from the primary containment will be detected by an interstitial monitoring device or method.
- (h) An underground storage tank which contains motor vehicle fuel and which is designed with an integral secondary containment system shall provide 100 percent secondary containment unless it is equipped with the overfill prevention system in accordance with section 2635(b)(2)(C). In this case, the top portion of the tank, no greater than two feet wide along the length of the tank, may be single-walled.
- (i) Tanks designed and constructed pursuant to the provisions of this section shall be monitored according to the provisions of section 2632.
- (j) Effective June 1, 2012, if an independent testing organization approval for containment or components described in subsection (b) does not include the compatibility of the hazardous substance stored or to be stored, an owner or operator may submit to the local agency a written, affirmative statement of compatibility for the specific hazardous substance from the manufacturer(s) of the containment or components. The written, affirmative statement of compatibility along with the independent testing approval specified in (b) shall satisfy the requirements in subsection (b) that all primary containment including any integral secondary containment system and all other components used to construct the primary containment system be approved by an independent testing organization as compatible with the specific hazardous substance stored or to be stored. If an affirmative statement of compatibility made by a manufacturer conflicts with a later determination by an independent testing organization on the compatibility of the hazardous substance stored or to be stored, the written, affirmative statement of compatibility shall no longer satisfy the compatibility requirements of subsection (b).
- (k) Subsection (i) applies only to underground storage tanks that meet the construction requirements contained in Health and Safety Code section 25291, subdivision (a), paragraphs (1)-(6), inclusive and subdivisions (b)-(i), inclusive, section 25290.1 or section 25290.2, as applicable.

Authority: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Sections 25281, 25284.1, and 25291, Health and Safety Code; 40 CFR 280.20.

STATEMENT OF MAILING NOTICE

Pursuant to section 86 of title 1 of the California Code of Regulations, the State Water Resources Control Board has complied with the provisions of Government Code section 11346.4, subdivisions (a)(1) through (4), regarding the mailing of the Notice of Proposed Rulemaking. The Notice was mailed on November 18, 2011, which was 45 days prior to the end of the public comment period that closed on January 2, 2012.

Dated:

2/28/2012

Signature:

Cory Herbert for

Laura Fisher

Division of Water Quality

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Committee has determined that the proposed regulation would not have a significant economic impact on small businesses. Instead, the impact of this rulemaking is to offer free health care to uninsured or under-insured Californians by volunteer health care practitioners coming from out of state to provide dental hygiene services. These services may benefit small businesses that do not provide dental hygiene care to their employees.

CONSIDERATION OF ALTERNATIVES

The Committee must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Committee has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Hygiene Committee of California at 2005 Evergreen Street, Suite 1050, Sacramento, California 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Traci Napper, Legislative Analyst
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-2572
Fax No.: (916) 263-2688
E-Mail Address: Traci_Napper@dca.ca.gov

The backup contact person is:

Name: Lori Hubble, Executive Officer
Address: 2005 Evergreen Street,
Suite 1050
Sacramento, CA 95815
Telephone No.: (916) 263-1978
Fax No.: (916) 263-2688
E-Mail Address: Lori_Hubble@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Committee's website: www.dhcc.ca.gov.

TITLE 23. STATE WATER RESOURCES CONTROL BOARD

DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS CHAPTER 16. UNDERGROUND STORAGE TANK REGULATIONS

Notice of Proposed Regulatory Action

ARTICLE 3. NEW UNDERGROUND STORAGE TANK DESIGN, CONSTRUCTION, AND MONITORING REQUIREMENTS

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) proposes to amend, adopt, or repeal the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Water Board proposes to amend California Code of Regulations, title 23, division 3, chapter 16, article 3, section 2631 relating to design and construction requirements for new underground storage tanks (USTs). The proposed regulation provides an option for compliance with existing independent testing and approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality.

PUBLIC HEARING

A public hearing has not been scheduled for this proposed action. However, as provided in Government Code section 11346.8, any interested person, or his or her duly authorized representative, may request a public hearing if the request is submitted in writing in the manner described below to the State Water Board no later than 15 days prior to the close of the written comment period. If a request for a public hearing is made, the State Water Board shall, to the extent practicable, provide notice of the time, date, and place of the hearing in accordance with Government Code section 11346.4 by mailing the notice to every person who has filed a request for notice with the State Water Board. In addition, as prescribed by Government Code section 11340.85, notice may be provided by means of electronic communication to those persons who have expressly indicated a willingness to receive notice by this means.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Water Board. The written comment period closes on January 2, 2012 at 5:00 p.m. The State Water Board will only consider comments received by that time.

Please send comment letters to Jeanine Townsend, Clerk to the Board, by email at (commentletters@waterboards.ca.gov) (if less than 15 megabytes in size or less), (916) 341-5620 (fax), or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000
(by mail)
10011 Street, 24th Floor, Sacramento, CA 95814
(by hand delivery)

Please also indicate in the subject line, "Comment Letter—Proposed UST Regulations."

Hand and special deliveries should also be addressed to Ms. Townsend at the address above. Couriers delivering comments must check in with lobby security and have them contact Ms. Townsend at (916) 341-5600.

To be added to the mailing list for this rulemaking and to receive notification of updates of this rulemaking, you may subscribe to the listserve for "Program Requirements and Guidance" by going to www.waterboards.ca.gov/lyrisforms/swrcb_subscribe.shtml. You may also call Ms. Laura Fisher at (916) 341-5870 or email her at lfisher@waterboards.ca.gov. Persons who receive this notice by mail or electronic mail are already on the mailing list.

AUTHORITY AND REFERENCE

Health and Safety Code section 25299.3 authorizes the State Water Board to adopt regulations to implement chapter 6.7 of the Health and Safety Code. Reference sections are Health and Safety Code sections 25281, 25286, 25290.1, 25290.2, 25291, and 25404.1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Chapter 6.7 of the Health and Safety Code requires that the primary containment of a UST be compatible with the stored substance, and that the secondary containment be constructed to prevent structural weakening as a result of contact with any released substance. Federal regulations also require UST owners and operators to use USTs that are made of or lined with materials that are compatible with the substance stored. Existing State Water Board regulations require that a UST be approved by an independent testing organization and that an owner or operator of a UST use system components made of, or lined with, materials that are compatible with the hazardous substances stored in the UST.

The State of California and the United States Environmental Protection Agency (U.S. EPA) have found that greenhouse gas (GHG) emissions pose a threat to human health and welfare. Using alternative fuels, including biodiesel blends, is imperative to reduce GHG emissions. Testing and approval of USTs has not kept up with the introduction of and desire to use alternative fuels in California. In 2009, the State Water Board promulgated a temporary regulatory variance of up to 36 months from certain regulatory provisions to allow UST owners to store biodiesel blends up to 20 percent biodiesel (B20) by volume in USTs before testing by an independent testing agency has been completed. This variance will sunset on June 1, 2012.

Various equipment and methods of leak detection equipment have been tested and have been approved for

use with various blends of biodiesel. The mechanisms are now in place for release detection equipment manufacturers and fuel suppliers to test and obtain approval for release detection equipment for other alternative fuels in a timely manner. However, testing by an independent testing agency of biodiesel blends greater than 5 percent biodiesel (B5) by volume in USTs will likely not be completed for several years and testing has not yet begun on various other alternative fuels.

The proposed regulation provides an option for UST owners and operators with USTs that meet construction requirements contained in Health and Safety Code section 25291, subdivision (a), paragraphs (1)-(6) and subdivisions (b)-(i), inclusive, section 25290.1 or section 25290.2 to comply with existing independent testing and approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality. The proposed regulation is consistent with the U.S. EPA's guidance on meeting the federal UST compatibility requirements. Similar to the temporary variance, the proposed regulation limits the option to double walled USTs.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 4.

COST OR SAVINGS TO STATE AGENCIES

The State Water Board has determined that there is no cost or savings to state agencies as a result of the proposed regulations.

COST OR SAVINGS IMPOSED ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The State Water Board has determined that there is no cost or savings imposed on local agencies or school districts as a result of the proposed regulations, or other nondiscretionary costs or savings imposed on local agencies or school districts.

COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

The State Water Board has determined that there is no cost or savings in federal funding to the state as a result of the proposed regulations.

BUSINESS IMPACT/SMALL BUSINESS

Because the proposed regulation provides an option for compliance with existing independent testing and approval requirements it will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Nor will the proposed regulatory action adversely affect small businesses in California.

The proposed regulation will allow businesses that own or operate USTs to store alternative fuels in USTs that currently either cannot be stored in USTs or can only be stored in USTs under the temporary variance that sunsets on June 1, 2012. This compliance option will make it possible for businesses that own or operate USTs to sell additional alternatives.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The State Water Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESSES

The State Water Board has determined that the proposed regulatory action will have no effect on the creation or elimination of jobs within California. Nor will the proposed regulatory action have any effect on the creation of new businesses, the elimination of existing businesses, or the expansion of existing businesses doing business within California.

EFFECT ON HOUSING COSTS

The State Water Board has determined that the proposed regulatory action will have no effect on housing costs.

ALTERNATIVES

The State Water Board must determine that no reasonable alternative would be more or equally effective in carrying out the purpose for which the proposed regulation is intended or less burdensome to affected private persons than the proposed action.

Interested persons may present statements or arguments with respect to alternatives to the proposed regulation during the written comment period or at any hearing on this matter.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND THE RULEMAKING FILE

The State Water Board has prepared an Initial Statement of Reasons for the proposed action. The statement includes the specific purpose for the regulation proposed for adoption and the rationale for the State Water Board's determination that adoption is reasonably necessary to carry out the purpose for which the regulation is proposed. All the information upon which the proposed regulation is based is contained in the rulemaking file. The Initial Statement of Reasons, the express term of the proposed regulation, and the rulemaking file are available from the contact person listed below or at the website listed below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding any hearing that is requested and considering all timely and relevant comments received, the State Water Board may adopt the proposed regulation substantially as described in this notice. If the State Water Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) days before the State Water Board adopts the regulation as modified. A copy of any modified regulation may be obtained by contacting Ms. Laura Fisher, the primary contact person identified below. The State Water Board will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting either of the persons listed below. A copy may also be accessed on the State Water Board website previously identified.

CONTACT PERSONS

Requests of copies of the text of the proposed regulation, the Statement of reasons, or other information upon which the rulemaking is based, or other inquiries should be addressed to the following:

Name: Laura Fisher
Address: State Water Resources Control Board
Division of Water Quality
1001 "T" Street
Sacramento, CA 95814
Telephone No.: (916) 341-5870
E-mail address: lfisher@waterboards.ca.gov
The backup contact person is:

Name: Cory Hootman
Address: State Water Resources Control Board
Division of Water Quality
1001 "T" Street
Sacramento, CA 95814
Telephone No.: (916) 341-5668
E-mail address: chootman@waterboards.ca.gov

The documents relating to this proposed action may also be found on the State Water Board's website at the following address:
http://www.waterboards.ca.gov/water_issues/programs/ust/.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986

CHEMICALS KNOWN TO THE STATE
TO CAUSE CANCER OR
REPRODUCTIVE TOXICITY
November 18, 2011

The Safe Drinking Water and Toxic Enforcement Act of 1986 requires that the Governor revise and republish at least once per year the list of chemicals known to the State to cause cancer or reproductive toxicity. The identification number indicated in the following list is the Chemical Abstracts Service (CAS) Registry Number. No CAS number is given when several substances are presented as a single listing. The date refers to the initial appearance of the chemical on the list. For easy reference, chemicals which are shown underlined are newly added. Chemicals which are shown with a strikeout were placed on the list with the date noted, and have subsequently been removed.



National Biodiesel Board
605 Clark Ave.
P.O. Box 104898
Jefferson City, Missouri 65110-4898
(573) 635-3893 *phone*
(573) 635-7913 *fax*

January 2, 2012

Via Electronic Filing

Jeanie Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor, Sacramento, CA 95814

SUBJECT: Comment Letter – Proposed UST Regulations

The National Biodiesel Board (NBB), the trade association for the U.S. Biodiesel Industry, is pleased to submit the following comments regarding the proposed UST Regulations under section 2631 Article 3 (commencing with section 2360), chapter 16, division 3, title 23 of the California Code of Regulations.

NBB supports the proposed regulatory action for new underground storage tank design, construction, and monitoring requirements, without modification.

We do have two suggestions for future work or consideration in the area of UST approvals specific to biodiesel and biodiesel blends, but do not believe the future work or consideration should impact approval process of the proposed regulations.

NBB would also like to take this opportunity to commend the California Water Board leadership and staff for their hard work, dedication, and commitment to this rulemaking. The Water Board staff has done an exemplary job of working with the technical community on this issue. This is a common sense rulemaking which is needed due to the long lead time for the development and approval of protocols for new fuels that are being developed—and the subsequent testing of these new fuel to those new protocols. It is testament to the dedication of the Water Board staff that these regulations will be completed well in advance of the expiration of the temporary variance in June 2012, even in the face of furloughs and shorter working hours.

NBB is currently working cooperatively with UL and the US Department of Energy on various testing protocols used by UL and other third party listing agencies to determine if the existing protocols used for petroleum diesel are sufficient for biodiesel or whether they should be modified. NBB is also working to determine whether the existing data available on biodiesel or petroleum diesel is sufficient to meet the listing needs, or whether further testing may be needed for blends over B20.

NBB efforts dating back to 1993 have focused on securing ASTM standards and research to secure biodiesel and biodiesel blends acceptance with the diesel engine and vehicle community. We now have ASTM International specifications for pure biodiesel (ASTM D6751) and for finished blends of biodiesel and petroleum diesel of B20 and lower (ASTM D7467, ASTM D975). Over the last 19 years, biodiesel and biodiesel blends have been successfully transported, stored, blended and utilized in a variety of petroleum diesel applications and in a variety of blend levels in the US, largely without incident.

The success of biodiesel's use is largely based upon two factors. First, B20 and lower blends have been the predominant blend levels used as these blends are compatible with existing diesel equipment and infrastructure. At the 2010 Petroleum Equipment Institute annual trade show, virtually every company contacted by NBB indicated their tanks, pumps, and dispensers were fully compatible with B20 (a few foreign companies were not aware of biodiesel so were unable to say anything one way or the other), and several indicated compatibility up to B100.

Second, the National Biodiesel Board has done an excellent job of educating biodiesel, petroleum diesel and fuel users on the proper considerations for storage and use of blends over B20. Biodiesel in high concentrations has shown to adversely affect some rubbers and plastics, so these materials are not recommended for use with high blends of biodiesel (see www.biodiesel.org). Prolonged contact with some metals can accelerate the degradation of biodiesel (as well as petroleum diesel), thus such metals are not recommended as materials of construction for systems carrying high blends of biodiesel. The degradation of high level blends of biodiesel depends upon contact time and long term exposure. Since petroleum diesel also exhibits degradation in the presence of these same metals they are not common in fuel systems and metal related issues have been rare.

Due to the lack of problems or incidents regarding the storing and blending of biodiesel in the market over the last 19 years, the need for additional research or investigation in this area was not viewed as a critical element for this relatively new industry. Indeed, the need for third party listings or approvals for this type of equipment was not widely recognized by the industry until recently. Over the past 19 years, the US biodiesel industry has strived to address technical issues and needs up front, and to do so through high caliber research conducted by the best in the industry. This research has also been conducted in collaboration with critical stakeholders, such as petroleum, engine, and regulatory interests.

In conclusion, the biodiesel industry is dedicated to the trouble-free use of biodiesel and biodiesel blends, and we look forward to continuing our efforts with UL, the California Water Board and others in this area in the future.

The following page contains two suggestions for future work or consideration in the area of biodiesel UST's, neither of which should be cause for delay of the existing proposal.

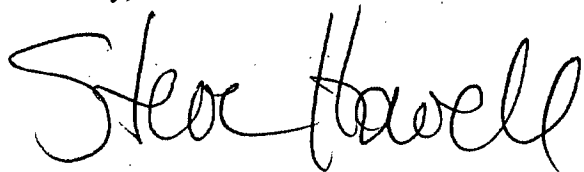
NBB Suggestions for Future Work and Consideration.

1. In the United States Environmental Protection Agency's (US EPA) guidance, "Compatibility of Underground Storage Tank Systems with Biofuel Blends," dated July 5, 2011, EPA amended the regulation to allow for another option that is not an option under the proposed California UST Regulations: Use of another method determined by the implementing agency to sufficiently protect human health and the environment. EPA stated they will work with states to further evaluate other acceptable options. The National Renewable Energy Laboratory is in the process of completing a report outlining the current status of biodiesel equipment approvals, including available materials compatibility data. This report may contain as much data on biodiesel—if not more—than is available from the current UL third party data used to approve gasoline and petrodiesel fuel in existing equipment. We would encourage the Board to consider in the future a third party report such as that being prepared by NREL as an accepted option in addition to the proposed alternatives for complying with California UST regulations.
2. We also encourage the board to consider approval of biodiesel blends of B20 and lower, potentially of B20 and higher, in single wall underground storage tanks that are currently used in commerce for petrodiesel. Such a determination could be based in part, on a third party study such as that being conducted by NREL on biodiesel. Based on the existing data, there does not appear to be any more risk of UST leakage with B20 and lower blends—potentially with higher blends—than there is with conventional petrodiesel.

Once again, we do not believe consideration of either of the suggestions above should delay the issuance of the current proposal. The current proposal should be approved immediately and prior to the expiration of the existing variance.

We thank the Water Board, its leadership, and its staff for their efforts in this important area.

Sincerely,

A handwritten signature in black ink that reads "Steve Howell". The signature is written in a cursive, flowing style with a large, prominent "S" at the beginning.

Steve Howell
Technical Director
National Biodiesel Board

CALIFORNIA ALLIANCE

January 2, 2012

Via Electronic Filing

Jeanie Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comments on Proposed UST Regulations

Dear Board Members:

The California Biodiesel Alliance (CBA), California's biodiesel industry trade organization, is pleased to have the opportunity to comment on the proposed UST regulations under section 2631 Article 3 (commencing with section 2360), chapter 16, division 3, title 23 of the California Code of Regulations.

CBA wishes to express our support for the proposed regulatory action without modification. We also wish to voice our agreement with the few suggestions for future actions or considerations regarding UST approvals detailed in the comments submitted on this regulatory action by the National Biodiesel Board (NBB).

CBA very much appreciates the efforts of Water Board leadership and staff in working with us to establish the variance program in 2009. We especially commend Water Board staff for bringing this proposed regulatory action to the Board in a timely manner toward the goal of providing a smooth transition from the variance process and a stable regulatory environment for UST owners. The ongoing diligence and cooperation of Water Board staff in working with the technical community to incorporate the biodiesel industry's knowledge and research into a permanent solution as represented by the proposed regulations are especially valued.

This letter is submitted in concert with written comments on this proposed regulatory action sent on January 2nd 2012 by the National Biodiesel Board (NBB). The NBB has been of invaluable assistance to CBA's UST efforts and has taken the lead in working for the development and approval of protocols for biodiesel as well as the subsequent testing of biodiesel to the new protocols.

We wish to echo the two requests made by the NBB in that letter regarding future work, but reiterate, as they did, that such consideration should not impact the approval process of the proposed regulations. The two suggestions are quoted in full below from the NBB letter:

CALIF RNIA ALLIANCE

NBB Suggestions for Future Work and Consideration.

1. *In the United States Environmental Protection Agency's (US EPA) guidance, "Compatibility of Underground Storage Tank Systems with Biofuel Blends," dated July 5, 2011, EPA amended the regulation to allow for another option that is not an option under the proposed California UST Regulations: Use of another method determined by the implementing agency to sufficiently protect human health and the environment. EPA stated they will work with states to further evaluate other acceptable options. The National Renewable Energy Laboratory is in the process of completing a report outlining the current status of biodiesel equipment approvals, including available materials compatibility data. This report may contain as much data on biodiesel—if not more—than is available from the current UL third party data used to approve gasoline and petrodiesel fuel in existing equipment. We would encourage the Board to consider in the future a third party report such as that being prepared by NREL as an accepted option in addition to the proposed alternatives for complying with California UST regulations.*
2. *We also encourage the board to consider approval of biodiesel blends of B20 and lower, potentially of B20 and higher, in single wall underground storage tanks that are currently used in commerce for petrodiesel. Such a determination could be based in part, on a third party study such as that being conducted by NREL on biodiesel. Based on the existing data, there does not appear to be any more risk of UST leakage with B20 and lower blends—potentially with higher blends—than there is with conventional petrodiesel.*

Thank you for your consideration of these comments. CBA strongly supports the immediate approval of the proposed regulations prior to the expiration of the existing variance in June of 2012. Again, we very much appreciate the efforts of the Water Board, its leadership, and staff on behalf of this issue of vital concern to California's biodiesel industry. Please contact me at (415) 218-3766 with any questions.

Sincerely,



Eric Bowen
Chairman
California Biodiesel Alliance



DEPARTMENT OF DEFENSE
REGIONAL ENVIRONMENTAL COORDINATOR, REGION 9
937 N. Harbor Drive, Box 81
San Diego, California 92132-0058

5090
Ser N40JRR.cs/0025
December 12, 2011

Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board (SWRCB)
1001 I Street, 24th Street
Sacramento, CA 95814

Subject: COMMENT LETTER – PROPOSED UST REGULATION

On behalf of Rear Admiral Smith, the Department of Defense (DOD) Regional Environmental Coordinator for EPA Region IX, and the Military Services in California, I am writing in support of the proposed regulatory action for new underground storage tank design, construction, and monitoring requirements.

As a component of meeting aggressive mandates for energy and water conservation development of renewable energy resources, and reduction of greenhouse gases, DOD uses biodiesel fuels in California. Typically these fuels are best stored in underground tanks. Independent testing has yet to be completed on the compatibility of such fuels with underground tanks, though the current regulation allows use of such alternative fuels through June 1, 2012. This proposed regulation would allow us to continue using such fuels, provided appropriate safeguards are in place.

We appreciate your efforts to accommodate our short-term needs for storage of alternative fuels. However, given the national mandates for federal agencies to increase usage of alternative fuels over the next decade and beyond (including biofuel-based aviation fuels), we recommend an ongoing collaboration to develop a similar regulatory solution for the large volumes of underground piping that serve aboveground tanks at military bulk fuel facilities.

The point of contact for this letter is Mr. Ned McKinley at ned.mckinley@usmc.mil or (760) 390-7352.

Sincerely,

C. L. STATHOS
By direction

UPDATED INFORMATIVE DIGEST

The State Water Resources Control Board did not make any changes to the proposed regulations. Consequently, no additional notice or public comment period was required.

There have been no changes in the applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

PUBLIC HEARING TRANSCRIPT

The State Water Resources Control Board did not receive a request for public hearing and it did not hold a public hearing.

**Proposed Amendments
to the
California Code of Regulations
Title 23. Waters
Division 3. State Water Resources Control Board
and Regional Water Quality Control Boards
Chapter 16. Underground Tank Regulations**

**FINAL
STATEMENT OF REASONS**

**February 2012
State of California
State Water Resources Control Board
Division of Water Quality**

Article 3. New Underground Storage Tank, Design, Construction, and Monitoring Requirements

SECTION 2631. DESIGN AND CONSTRUCTION REQUIREMENTS FOR NEW UNDERGROUND STORAGE TANKS.

UPDATE OF INITIAL STATEMENT OF REASONS

The State Water Resources Control Board (State Water Board) has determined that there is no need to update the Initial Statement of Reasons. The State Water Board did not make any changes to the regulations after they were noticed for public comment on November 18, 2011. Consequently, no additional notice or public comment period was required.

SUMMARY OF AND RESPONSE TO COMMENTS RECEIVED ON PROPOSED RULEMAKING

Commenter 1. C.L. Stathos on behalf of Rear Admiral Smith, Department of Defense Regional Environmental Coordinator for U.S. EPA Region IX and the Military Services in California

Comment 1.1: "We appreciate your efforts to accommodate our short-term needs for storage of alternative fuels."

Response 1.1: The State Water Board thanks you for your support.

Comment 1.2: "[G]iven the national mandates for federal agencies to increase usage of alternative fuels over the next decade and beyond (including biofuel-based aviation fuels), we recommend an ongoing collaboration to develop a similar regulatory solution for the large volumes of underground piping that serve aboveground tanks at military bulk fuel facilities."

Response 1.2: The commenter recommends that the State Water Board develop regulations governing the use of alternative fuels in underground piping that serves aboveground tanks at military bulk fuel facilities. The State Water Board cannot comply with this request because the State Water Board does not have the authority to regulate design and construction of underground piping that serves aboveground tanks at military bulk fuel facilities.

Commenter 2. Steve Howell, Technical Director, National Biodiesel Board (NBB)

Comment 2.1: "NBB supports the proposed regulatory action for new underground storage tank design, construction, and monitoring requirements, without modification."

Response 2.1: The State Water Board thanks you for your support.

Comment 2.2: "In the United States Environmental Protection Agency's (US EPA) guidance, "Compatibility of Underground Storage Tank Systems with Biofuel Blends," dated July 5, 2011, EPA amended the regulation to allow for another option that is not an option under the proposed

California UST Regulations: Use of another method determined by the implementing agency to sufficiently protect human health and the environment. EPA stated they will work with states to further evaluate other acceptable options. The National Renewable Energy Laboratory is in the process of completing a report outlining the current status of biodiesel equipment approvals, including available materials compatibility data. This report may contain as much data on biodiesel—if not more—than is available from the current UL third party data used to approve gasoline and petrodiesel fuel in existing equipment. We would encourage the Board to consider in the future a third party report such as that being prepared by NREL as an accepted option in addition to the proposed alternatives for complying with California UST regulations.”

Response 2.2: The commenter states that the NREL report may provide an alternative option for compliance with existing independent testing and approval requirements for biodiesel blends. Because the NREL report is not yet complete, the State Water Board cannot thoroughly evaluate its use as an alternative compliance mechanism at this time.

Comment 2.3: “We also encourage the board to consider approval of biodiesel blends of B20 and lower, potentially of B20 and higher, in single wall underground storage tanks that are currently used in commerce for petrodiesel. Such a determination could be based in part, on a third party study such as that being conducted by NREL on biodiesel. Based on the existing data, there does not appear to be any more risk of UST leakage with B20 and lower blends—potentially with higher blends—then there is with conventional petrodiesel.”

Response 2.3: The third-party testing required to meet existing independent testing and approval requirements is extensive. This regulation allows a written, affirmative statement of compatibility from the manufacturer of the component as an option for compliance with existing independent testing and approval requirements for double-walled underground storage tanks (USTs). At this time, the State Water Board does not feel that it is appropriate to extend this compliance alternative to the storage of hazardous substances in single-walled USTs.

The commenter states that the State Water Board could decide to approve biodiesel blends of B20 and lower, potentially of B20 and higher, in single-walled USTs, based in part on the NREL report. Because the NREL report is not yet complete, the State Water Board cannot fully evaluate its use to support storage of biodiesel blends in single-walled USTs at this time.

Commenter 3. Eric Bowen, Chairman, California Biodiesel Alliance (CBA)

Comment 3.1: “CBA wishes to express our support for the proposed regulatory action without modification.”

Response 3.1: The State Water Board thanks you for your support.

Comment 3.2: “In the United States Environmental Protection Agency’s (US EPA) guidance, “Compatibility of Underground Storage Tank Systems with Biofuel Blends,” dated July 5, 2011, EPA amended the regulation to allow for another option that is not an option under the proposed California UST Regulations: Use of another method determined by the implementing agency to sufficiently protect human health and the environment. EPA stated they will work with states to further evaluate other acceptable options. The National Renewable Energy Laboratory is in the process of completing a report outlining the current status of biodiesel equipment approvals, including available materials compatibility data. This report may contain as much data on biodiesel—if not more—than is available from the current UL third party data used to approve gasoline and petrodiesel fuel in existing equipment. We would encourage the Board to consider

in the future a third party report such as that being prepared by NREL as an accepted option in addition to the proposed alternatives for complying with California UST regulations."

Response 3.2: See response to Comment 2.2, above.

Comment 3.3: "We also encourage the board to consider approval of biodiesel blends of B20 and lower, potentially of B20 and higher, in single wall underground storage tanks that are currently used in commerce for petrodiesel. Such a determination could be based in part, on a third party study such as that being conducted by NREL on biodiesel. Based on the existing data, there does not appear to be any more risk of UST leakage with B20 and lower blends—potentially with higher blends—then there is with conventional petrodiesel."

Response 3.3: See response to Comment 2.3, above.

LOCAL MANDATE

The State Water Board has determined that the proposed action will not impose a mandate on local agencies or school districts. Additionally, the State Water Board has determined that the proposed action will not result in costs or savings to any state agency or any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code, other nondiscretionary costs or savings imposed on local agencies, or costs or savings in federal funding to the State.

ALTERNATIVES DETERMINATION

The State Water Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

The proposed regulation provides an option for compliance with existing independent testing and approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality. Because the proposed regulation provides an option for compliance with existing independent testing and approval requirements, the State Water Board has determined that the proposed regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The State Water Board has further determined that the proposed regulatory action will not adversely affect small businesses in California.



STATE WATER BOARD

BOARD MEETING

Tuesday, February 21, 2012- 9:00 a.m.

Coastal Hearing Room - Second Floor

Joe Serna Jr./Cal/EPA Building

1001 I Street, Sacramento

DECLARATION OF A QUORUM

Charles R. Hoppin, Chairman; Frances Spivy-Weber, Vice Chair; Tam M. Doduc, Member

BOARD MEETING

Public comments on agenda items will be limited to 3 minutes or otherwise at the discretion of the Board Chair

PUBLIC FORUM

Any member of the public may address and ask questions of the Board relating to any matter within the State Water Board's jurisdiction provided the matter is not on the agenda, or pending before the State Water Resources Control Board or any California Regional Water Quality Control Board.

BOARD BUSINESS

1. The Board will consider adoption of the February 7, 2012, Board Meeting minutes.
2. Board Member Report.

UNCONTESTED ITEMS* (Items 3-4)

- *3. Consideration of a proposed Resolution to request up to \$550,000 from the U.S. Environmental Protection Agency to augment the implementation of the Beach Water Quality Program (Beach Safety Program) for the period October 1, 2012 through September 30, 2013.
- *4. Consideration of a proposed Resolution adopting a regulation that provides an option for compliance with existing UST independent testing organization approval requirements.
(Written comments were due on January 2, 2012 by 5:00 p.m.)

INFORMATIONAL ITEMS

5. Update on the current review of the 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and its implementation.
 - Comment Letters
6. Executive Director's Report.

IMPORTANT INFORMATION!!

Unless otherwise specified, submittal of written comments must be received by 12:00 p.m. on February 14, 2012, and will not be accepted after that time.

Submittal of **electronic Powerpoint presentations** must be received by 12:00 p.m. on February 16, 2012, and will not be accepted after that time.

Submittals are to be sent via e-mail to the Clerk to the Board at commentletters@waterboards.ca.gov. Please indicate in the subject line, "2/21/2012 BOARD MEETING **(fill in bolded subject from appropriate item)**." If you have questions about the agenda, contact the Clerk to the Board at (916) 341-5600.

Agenda and Items will be available electronically at: http://www.waterboards.ca.gov/board_info/calendar/index.shtml

* Items on the uncontested items calendar may be removed at the request of any Board member or person. If an item is removed from the uncontested items calendar, it will only be voted on at this meeting if the Board accepts the staff recommendation for the agenda item. Otherwise, the item will be continued to a subsequent board meeting to allow input by interested persons.

Video broadcast of meetings will be available at: <http://www.calepa.ca.gov/Broadcast/>.

For a map to our building, visit: <http://www.calepa.ca.gov/EPABldg/location.htm>. For security purposes, all visitors are required to sign in and receive a badge prior to entering the building. Valid picture identification may be required due to the security level so please allow up to 15 minutes for this process. Individuals who require special accommodations are requested to contact the Office of Employee Assistance, at (916) 341-5881.

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2012-0010**

**ADOPTING A REGULATION THAT PROVIDES AN OPTION FOR COMPLIANCE
WITH EXISTING UNDERGROUND STORAGE TANK INDEPENDENT TESTING
ORGANIZATION APPROVAL REQUIREMENTS**

WHEREAS:

1. Chapter 6.7 of the Health and Safety Code requires that the primary containment of an underground storage tank (UST) be compatible with the stored substance, and that the secondary containment be constructed to prevent structural weakening as a result of contact with any released substance.
2. To implement chapter 6.7 of the Health and Safety Code, the State Water Resources Control Board (State Water Board) promulgated a regulation which requires that a UST be approved by an independent testing organization.
3. With the rapid influx of alternative fuels and the lack of independent testing organization approvals, the State Water Board adopted an emergency regulation May 5, 2009 allowing for a temporary variance of the independent testing organization. The variance expires June 1, 2012.
4. With the exception of biodiesel fuel blends up to 5 percent biodiesel (B5), USTs manufactured to date and in use in California have not received independent testing organization approvals for other alternative fuels.
5. In 2007, Governor Schwarzenegger signed Executive Order S-01-07, which states, among other things, that greenhouse gas (GHG) emissions pose a serious threat to the health of California's citizens and the quality of the environment and that alternative fuels can reduce GHG emissions.
6. The federal Energy Policy Acts of 1992 and 2005 require the use of renewable fuels and/or alternative fuel vehicles (AFVs) by certain light duty vehicle fleets. Fleets can earn credits through the purchase and use of biodiesel blends containing at least 20 percent biodiesel (B20) in lieu of purchasing AFVs. Many California fleets are attempting to comply with the provisions of the Energy Policy Acts through the use of B20.
7. Storage issues have contributed to the delay of more widespread use of biodiesel and other alternative fuels in California. Allowing additional options to demonstrate compatibility will authorize and facilitate the use of alternative fuels in California.
8. The proposed regulation provides for an option for compliance with independent testing approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality.

9. The State Water Board published and distributed a Notice of Proposed Regulatory Action and text of the proposed regulation on November 17, 2011. The 45-day public comment period ended on January 2, 2012, and the State Water Board received written comments. Responses to all timely comments and one late comment received on the proposed regulation are contained in the Final Statement of Reasons.
10. Adoption of this regulation is exempt from the California Environmental Quality Act Public Resources Code section 21000 et seq., as a project to protect natural resources and the environment (Cal. Code of Regs, title 14, §§ 15307 & 15308).

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts the proposed amendment of California Code of Regulations, title 23, division 3, chapter 16, article 3, section 2631 (Attachment) and the Executive Director is authorized to transmit the regulation to OAL for filing with the Secretary of State, and to make any non-substantive revisions to the regulation to facilitate the review process.

CERTIFICATION


The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on February 21, 2012.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR(See instruct
reverse)

on

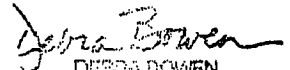
For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBER	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2012-0302-015	
For use by Office of Administrative Law (OAL) only			
NOTICE		2012 MAR -2 PM 12:47	
		OFFICE OF ADMINISTRATIVE LAW	
REGULATIONS			

ENDORSED FILED
IN THE OFFICE OF

2012 APR 10 PM 3:02


 DEBRA BOWEN
 SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2011, 462
				PUBLICATION DATE 11-18-2011

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Underground Tank Regulations		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
		AMEND	
2631		REPEAL	
TITLE(S) 23			
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY.			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM 56660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Laura Fisher		TELEPHONE NUMBER (916) 341-5870	FAX NUMBER (Optional) (916) 341-5808
		E-MAIL ADDRESS (Optional) lfisher@waterboards.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 2/28/2012
TYPED NAME AND TITLE OF SIGNATORY Thomas Howard, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 10 2012

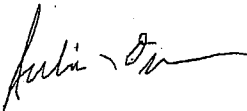
Office of Administrative Law

CERTIFICATION

The foregoing table of contents constitutes the State Water Resources Control Board's rulemaking file for the subject regulations. The rulemaking file as submitted is complete. The rulemaking record for the subject regulations was closed on February 28, 2012.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Sacramento, California on February 28, 2012.

Signed:



Julie M. Osborn
Staff Counsel
Office of Chief Counsel
State Water Resources Control Board



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

TO: Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814-4339

FROM: 
Thomas Howard
Executive Director
EXECUTIVE OFFICE

DATE: MAR 02 2012

SUBJECT: PROPOSED AMENDMENT OF SECTION 2631, UNDERGROUND STORAGE
TANK REGULATIONS
OAL FILE Z-2011-1105-01

The State Water Resources Control Board (State Water Board) proposes to amend existing California Code of Regulations, title 23, division 3, chapter 16, article 3, section 2631.

The attached, complete rulemaking file is being sent to you for your review and subsequent filing with the Office of Secretary of State. As required, seven copies of the proposed regulatory amendments with Form 400 attached to the face of each are also attached.

If you have any questions about any of these materials, please contact Ms. Laura Fisher at (916) 341-5870 (lfisher@waterboards.ca.gov).

Attachments (8)

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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**State of California
Office of Administrative Law**

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APR 12 2012

DIVISION OF WATER QUALITY

In re:
State Water Resources Control Board

NOTICE OF APPROVAL OF REGULATORY
ACTION

Regulatory Action:

Government Code Section 11349.3

Title 23, California Code of Regulations

OAL File No. 2012-0302-01 S

Adopt sections:

Amend sections: 2631

Repeal sections:

The State Water Resources Control Board proposes to amend section 2631 of title 23 of the California Code of Regulations relating to design and construction requirements for new underground storage tanks (USTs). The proposed revision provides an option for compliance with existing independent testing and approval requirements so that UST owners and operators can store alternative fuels in USTs in a manner that does not create any significant risk of adverse impacts to water quality.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 5/10/2012.

RAIG TARPENNING

Date: 4/10/2012

Craig S. Tarpenning
Senior Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Thomas Howard
Copy: Laura Fisher

DIVISION OF WATER QUALITY ROUTE SLIP

DWQ Control # 12-019 EXEC Control # _____

Due Date: ASAP

Item: Final Statement of reasons 2 3 1

File Path: W:\CONTROL ASSIGNMENTS\2012\GROUNDWATER BRANCH\UST Section\DWQ SIGNATURE\12-019

SPECIAL INSTRUCTIONS: _____

Deputy Director () Vicky Whitney

Executive Assistant () Forrest Gardens

GROUNDWATER QUALITY BRANCH

Assistant Deputy Director (5) Shahla Farahani
() Kelly Maurie

UST Section (4) Kevin Graves

UST Unit I (2) Laura Fisher
() Terry Snyder (1) Cory Hootman
() Sean Farrow () Vacant

UST Unit II () George Lockwood
() Trinh Pham () Hamid Foolad
() Brian Levers

UST Unit III () Ben Heningburg
() Russell Hansen () Ben Wright
() Vacant () Vacant

Brownfields/DOD Unit () Todd Thompson
() Ian Waters () Cathy McDade
() Karen Besette () Camilla Williams

Groundwater Protection Section () Scott Couch

GAMA Unit () John Borkovich
() Jan Stepek () Dorian Bellan
() Janice Zinky () Erik Ekdahl

WDR Unit I Permits () Mary Serra
() Matthew Howard () Vacant
() Vacant () Vacant

WDR Unit II Policies () Gordon Innes
() Johnny Gonzales () Gary Dickenson
() Jagroop Khela () Melene Emanuel

Land Disposal Unit () Leslie Graves
() Roger Mitchell (RB9) () Nadine Langley
() Ed Wosika () Ember Christensen

Admin/Program Support Section () Jennifer Taylor

Fiscal & Program Support Unit () Vacant
() Marco Meza () Carolyn Brookshire
() Lisa Heckler () Jenniffer Jordan
() Vacant () Julie Saturnio

Administrative Support Unit () Vacant
() Sally Meza () Simone Halbert
() Veronica Shaneen (LOAN) () Rachael Horsley
() Vivian Gomez-Latino () Pammy Jimenez

EXEC: () Jonathan Bishop () Thomas Howard

SURFACE WATER/REGULATORY BRANCH

Assistant Deputy Director () Ken Harris
() Rachael Tadlock

TMDL Section () Rik Rasmussen
() Joanne Cox

Surface Water Quality Assessment Unit () Syed Ali
() Jeffrey Shu () Jaclyn Pimental
() Jessie Maxfield () Vacant
() Vacant

Planning Standards & Implementation Unit () Paul Hann

() Stephanie Rose () Brian Ogg
() Michael Buckman () Nirmal Sandhar
() Mariela Carpio-Obeso () Steve Camacho

Surface Water/Permitting Section () Bruce Fujimoto

() Eric Berntsen () Patrick Otsuji

NPDES Unit () Phil Isorena
() Russell Norman () Carl Henriet
() Victor Lopez () Renan Jauregui

Industrial Construction Unit () Greg Gearheart

() Laurel Warddrip () Annalisa Kihara
() Leo Cosentini () Regan Morey

Municipal Unit () Walt Shannon

() Jenny Chen () Jaime Favila
() Kim Ward () Bill Hereth

Ocean, Wetlands & Watersheds () Dominic Gregorio

() Frank Roddy () John Menke

Water Quality Cert. Unit () Bill Orme

() Jeanine Mascia () Catherine Woody
() Cliff Harvey () Bob Solecki

NPS Unit () Steve Fagundes

() Jodi Pontureri () Matthew Freese
() Jowin Cheung () Vacant

Ocean Standards Unit () Vacant

() Connie Anderson () Joanna Jensen
() Emily Siegel () Chris Beegan
() Michael Gjerde () Vacant

DWQ Legal Staff (OCC): () Philip Wyls

(3) Julie Osborn () Bethany Pane
() Emel Wadhvani () James Herink
() Stacy Gillespie () Lori Brock
() Nathan Jacobsen () Tim Regan

DIVISION OF WATER QUALITY ROUTE SLIP

DWQ Control # _____

EXEC Control # _____

Due Date: 3/1/2012

Item: Proposed Amendment of Section 2631, Underground Storage Tank Regulations

File Path: _____

Deputy Director (5) Vicky Whitney

Executive Assistant () Julie Saturnio

GROUNDWATER QUALITY BRANCH
Assistant Deputy Director (4) Shahla Farahnak

SURFACE WATER/REGULATORY BRANCH
Assistant Deputy Director () Ken Harris

Groundwater Protection Section () Lisa Babcock

() Rick Humphreys

Land Disposal Unit () Leslie Graves

() Nadine Langley () Ed Wosika
() Ember Christensen () Roger Mitchell

GAMA Unit () John Borkovich

() Erik Ekdahl () Jan Stepek
() Janice Zinky () Dorian Bellan
() Mariela Carpio-Obeso

Brownfields/DOD Unit () Todd Thompson

() Ian Waters () Bridget Freeborn
() Karen Bessette () Lisa Heckler
() Cathy McDade

Non Point Source Section () Syed Ali

() Kelly Maurie

Confined Animal Facility Specialist () John Menke

Forestry Specialist () Gaylon Lee

NPS Plan Implementation Unit () Steve Fagundes

() Melene Emanuel () Jodi Pontureri

Program Resources Control Unit () Jennifer Taylor

() Rachael Horsley () Sallie Ashton
() Sally Meza () Marco Meza
() Simone Halbert () Carolyn Brookshire
() Pammy Jimenez

UST Section (2) Kevin Graves

() Vivian Gomez-Latino () Jennifer Scholte
() Stephanie Lopez

UST Cleanup Unit () George Lockwood

() Brian Levers () Ben Wright
() Benjamin Heningburg () Hamid Foolad
() Jenniffer Jorden () Trinh Pham

UST Leak Prevention Unit () Laura Fisher

() Russell Hansen () Cory Hootman
() Sean Farrow () Terry Snyder

DWQ Legal Staff (OCC): () Philip Wyls

() Marleigh Wood () Bethany Pane
() Emel Wadhwani () James Herink
() Stacy Gillespie () Lori Brock
() Nathan Jacobsen (3) Julie Osborn

Regulatory Section () Vacant

WDR Unit () Gordon Innes

() Gary Dickenson () Johnny Gonzales
() Russell Norman () Victor Lopez
() Jagroop Khela

NPDES Unit () Phil Isorena

() Renan Jauregui () Carl Henriet
() Jenny Chen

Cert & Wetland Program () Bill Orme

() Robert Solecki () Jeanine Mascia
() Catherine Woody () Clifford Harvey

WDR Unit II () Mary Serra

() Camilla Williams () Matthew Howard

Storm Water Section () Bruce Fujimoto

() Eric Berntsen

Municipal Unit () Walt Shannon

() Christine Sotelo () Bill Hereth
() Jaime Favila

Industrial Construction Unit () Greg Gearheart

() Patrick Otsuji () Laurel Warddrip
() Annalisa Kihara () Dylan Seidner
() Leo Cosentini () Regan Morey
() Chris Haynes

Ocean Unit () Dominic Gregorio

() Chris Beegan () Joanna Jensen
() Kim Ward () Emily Sigel
() Connie Anderson () Michael Gjerde

TMDL Section () Rik Rasmussen

Statewide TMDL Coordinator () Joanne Cox

Environmental Policy Specialist () Frank Roddy

Water Quality Assessment Unit () Vacant

() Jessie Maxfield () Jeffry Shu
() Jaclyn Pimental () Molly Munz

Planning Standards & Implementation Unit () Paul Hann

() Steve Camacho () Michael Buckman
() Brian Ogg () Nirmal Sandhar
() Stephanie Rose () Nick Martorano

EXEC: () Jonathan Bishop () Thomas Howard